

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

JAMES CARTER,	)	Case No.: 4:11 CV 1100
	)	
Petitioner	)	
	)	
v.	)	JUDGE SOLOMON OLIVER, JR.
	)	
J.T. SHARTLE, WARDEN,	)	
	)	
Respondent	)	<u>ORDER</u>

On March 24, 2009, *pro se* Petitioner James Carter (“Carter” or “Petitioner”) filed a petition for writ of habeas corpus (“Petition,” ECF No. 1) pursuant to 28 U.S.C. § 2241, challenging his federal sentence computation. Petitioner argues that he is entitled to credit for time spent in state custody after the imposition of his federal sentence. Respondent filed a Motion to Dismiss on May 17, 2012, arguing that Petitioner’s time in state custody had already been credited against another federal sentence. (ECF No. 25.) This court referred the case to Magistrate Judge Vernelis K. Armstrong for preparation of a Report and Recommendation.

Magistrate Judge Armstrong submitted her Report and Recommendation on October 15, 2012, recommending that Respondent’s Motion to Dismiss be granted. (ECF No. 26.) Magistrate Judge Armstrong concluded that “it appears beyond doubt that Petitioner is not entitled to receive credit already awarded to another sentence,” and that Petitioner

therefore “failed to state a claim which entitles him to the relief requested.” (Report and Recommendation 8, ECF No. 26.)

As of the date of this Order, Petitioner has not filed objections to the Report and Recommendation. By failing to do so, he has waived the right to appeal the Magistrate Judge’s recommendation. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).

Further, the court finds that, after *de novo* review of the Report and Recommendation and all other relevant documents, the Magistrate Judge’s conclusions are fully supported by the record and controlling case law. The court adopts in full Magistrate Judge Armstrong’s Report and Recommendation. (ECF No. 26.) Accordingly, the court grants Respondent’s Motion to Dismiss (ECF No. 25) and terminates the referral to Magistrate Judge Armstrong. The court further certifies that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

/s/SOLOMON OLIVER, JR.  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

December 20, 2012